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FISCAL IMPACT STATEMENT

LS 7443

BILL NUMBER: HB 1270

NOTE PREPARED: Feb 21, 2011

BILL AMENDED: Feb 17, 2011

SUBJECT: Property Taxes.

FIRST AUTHOR: Rep. Pryor

FIRST SPONSOR: Sen. Miller

BILL STATUS: As Passed House

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Fraternity / Sorority Property Tax Exemption:* This bill provides that the property tax exemption for fraternity or sorority property applies to property used for administrative purposes including property owned by a national or international headquarters, fraternity or sorority foundations, and housing corporations.

Cooperative Housing: This bill establishes standards for determining when a cooperative housing corporation is eligible for a standard deduction or a 1% circuit breaker credit.

Contract Property Sales: The bill specifies the terms that a contract for the purchase of real property must include to qualify the buyer for certain property tax deductions. It defines a contract containing the required terms as a qualified installment contract.

The bill provides that a person who: (1) owns property subject to taxation; (2) misrepresents a residential lease as a qualified installment contract; and (3) through the person's misrepresentation causes another individual to improperly claim a deduction that is made available to a buyer under a qualified installment contract; is liable for any additional taxes that would have been due on the property if the person had leased the property to the purported contract buyer, plus a civil penalty equal to 10% of the additional taxes due.

Cooperative House Property Tax Exemption: The bill provides for the retroactive application of a property tax exemption to a taxpayer that owns real and personal property used as part of or in connection with a men's cooperative house.

Effective Date: January 1, 2008 (retroactive); March 1, 2011 (retroactive); July 1, 2011.

Explanation of State Expenditures:

Explanation of State Revenues: *Contract Property Sales:* The Department of Local Government Finance (DLGF) would receive 1% of the total civil penalties collected under this bill. The revenue would be used for maintaining the homestead property database.

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) *Fraternity / Sorority Property Tax Exemption:* Under current law, a fraternity or sorority is entitled to a property tax exemption on up to one acre of land plus the real property improvements and personal property on the land if the property is connected to an educational institution and used to carry out its purpose. In addition, a fraternity or sorority headquarters may qualify for an exemption under the statute allowing an exemption for an educational or charitable purpose.

This bill would:

- 1) Remove the one acre limitation on the land exemption;
- 2) Allow the exemption for fraternities and sororities that are *related to* an educational institution;
- 3) Include in the definition of fraternities and sororities, (a) an international, national, state, or local office that oversees member chapters, (b) a related foundation, and (c) a related housing corporation;
- 4) Include certain limited liability companies in the definitions of fraternity and sorority;
- 5) Include fraternities and sororities in the list of entities that would file only once for an exemption rather than filing annually; and
- 6) Allow an exemption for taxes payable in 2011 for property acquired for the future use of a fraternity or sorority.

One Acre Limit. A review of county property tax data revealed that there were 366 parcels in the state that currently had a fraternity or sorority exemption in 2010. These parcels had a total gross assessment of \$127.5 M. All but \$3.9 M was exempt and the net taxes billed totaled \$76,111. If it is assumed that the \$3.9 M in nonexempt AV is related to excess land over one acre, then this bill would shift the \$76,111 in taxes from the fraternities and sororities to other taxpayers.

Headquarters. The provision that would treat a fraternity or sorority headquarters the same as a chapter would ensure that the headquarters receives an exemption. Under current law, local taxing officials must make a determination as to whether a headquarters qualifies for an exemption under the educational or charitable purpose exemption statutes. In some cases, local taxing officials have denied the exemption. The fiscal impact of this provision depends on the final adjudication of any appeals of local denials. If the headquarters ultimately prevail, then this provision would have no impact. However, if the headquarters do not prevail, then this bill would shift the headquarters' property tax burden to other taxpayers. The number of properties that would be affected is not currently known.

Future Use Exemption. Property not yet used for fraternity or sorority purposes does not qualify for the exemption. Property tax rates have been set for 87 counties. If an additional exemption is allowed for taxes payable in 2011 then the affected taxing units would forego receipt of the taxes from these parcels. The number of properties and taxes that would be exempted are not currently known.

Cooperative Housing: Under current law, homesteads receive a standard deduction worth 60% of AV up to \$45,000. Homesteads also receive the supplemental standard deduction worth 35% on the first \$600,000 of net AV after the standard deduction plus 25% of the net AV that exceeds \$600,000. In addition, homestead

property is subject to a 1% circuit breaker cap.

A homestead is defined as a an individuals's principal residence that the individual owns or is entitled to occupy as a tenant-stockholder of a cooperative housing corporation or one that is owned by certain trusts. This bill would define an eligible cooperative housing corporation. A tenant-stockholder would qualify as a homesteader only if the property is "*eligible* cooperative housing corporation property".

Under this bill, eligible cooperative housing corporation property is property that is (1) owned by a cooperative housing corporation; and (2) used as a principal residence by a tenant-stockholder who can demonstrate an ownership interest in the shares of the co-op that has a value at least equal to the true tax value of the residence.

This bill would restrict homestead status to only those housing co-ops that meet these guidelines. Co-op property that doesn't meet the above guidelines would lose their homestead status beginning with taxes payable in CY 2012. There is no data currently available to identify those properties that would be affected.

Loss of homestead status for any property would mean the loss of the standard and supplemental standard deductions, as well as being subject to the 2% circuit breaker cap for non-homestead residential property rather than the 1% cap for homesteads. The loss of the deductions would add assessed value to the tax base and shift part of the tax burden to the affected property owners from all other property owners. The higher property tax cap would potentially reduce revenue losses for taxing units where the property is located.

(Revised) *Contract Property Sales*: Under current law, several property tax deductions are available to qualifying persons who either own property or are buying the property under contract. This bill would affect the mortgage, elderly, blind / disabled, disabled veteran, WWI veteran (and spouse), and homestead standard deductions. In order to qualify for these deductions, this bill specifies that the contract for real property must (1) be recorded, (2) require the buyer to pay property taxes, (3) specify the total contract price, and (4) require the seller to issue a deed or other evidence of title upon full payment. A contract for a manufactured or mobile home must (1) be recorded and (2) require the buyer to pay property taxes.

A fiscal impact would occur only if a current or future contract does not contain these terms. If a contract does not meet these requirements, then the deduction would be terminated. Without the deduction(s), the net assessed value of the property would increase which would add to the tax base and reduce tax rates. In addition, if the standard deduction is removed from a property, then taxes on the property would be capped at the 2% residential cap rate rather than the 1% homestead cap rate.

Beginning with mobile home taxes payable in CY 2012 and real property taxes payable in CY 2013 under the bill, a seller who makes a misrepresentation that causes a buyer to improperly claim a deduction would be liable for all back taxes including penalties and interest, plus an additional 10% penalty.

The actual fiscal impact depends on the number of contracts that would be deemed by county officials to be nonconforming.

(Revised) *Cooperative House Property Tax Exemption*: Under this provision the owner of a men's cooperative house may receive a property tax exemption for taxes payable in 2007, 2008, 2009, and 2010 if the property would have qualified for the exemption if the application had been timely filed.

The total number of taxpayers impacted is unknown. However, one taxpayer in Tippecanoe County has been

identified as qualifying for and exemption under this provision. The total net taxes billed for years 2007 through 2010 is \$69,344. The taxing units that provide services to this property would forego the \$69,344 in expected revenue.

State Agencies Affected: Department of Local Government Finance.

Local Agencies Affected: County auditors; County recorders; Local civil taxing units and school corporations.

Information Sources: OFMA Property Tax Database.

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